



1631

DOCKET NO. L00461.70105.US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Chen et al.
Serial No.: 09/849,602
Confirmation No.: 8884
Filed: May 4, 2001
For: COLON CANCER ANTIGEN PANEL
Examiner: C. D. Ly
Art Unit: 1631

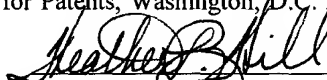
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Heather B. Hill

Commissioner for Patents
Washington, DC 20231

Sir:

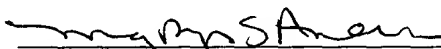
Transmitted herewith are the following documents:

- ☒ Response to Restriction Requirement
- ☒ Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617)720-3500, Boston, Massachusetts.

No fee is enclosed. If a fee is necessary, the Commissioner is hereby authorized to charge Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully Submitted,


MaryDily's S. Anderson, Reg. No. P-52,560
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Telephone: (617)720-3500

Docket No. L00461.70105.US
Date: February 14th, 2003
x02/27/03



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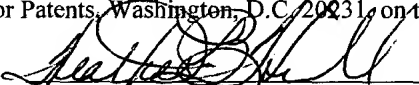
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RESPONSE TO RESTRICTION REQUIREMENT

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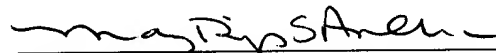
In response to the Action mailed on January 27, 2003 requiring a further restriction requirement, Applicants elect Group I, claims 1-5, 15, 16, 47, 48, 86-89 and 98, drawn to methods and kits for diagnosing colon cancer. In accordance with the sequence election requirement, Applicants elect the NY-CO-58 sequence (KNSL6; SEQ ID NOS: 5 and 20) and the NY-CO-95 sequence (KIAA1416; SEQ ID NOS: 1 and 16), with traverse.

Remarks

Applicants traverse the sequence election requirement because, while acknowledging that the nucleotide sequences encoding different proteins are different, the claims are directed to methods for using the sequences in the diagnosis of cancer. Therefore, in contrast to the situation where claims are made to the sequences themselves, Applicants do not believe that examination of the recited sequences as used in the methods would entail a significant burden on the Examiner.

Second, Applicants note that certain of the claims recite the use of two or more of the sequences in the diagnosis of cancer. For such claims, the sequence election requirement limiting examination to two sequences seems particularly inapplicable because the claims are directed to using panels of sequences in cancer diagnosis. The identification by Applicants of a specific panel of sequences that are found in a high percentages of cancers provides an advantage to clinicians seeking better diagnostics to better treat patients. The sequence election imposed by the Examiner may limit the scope of these panel claims and this may well hamper the ability of the claimed diagnostics to reach the clinical setting because the incentive provided by patent protection will be significantly reduced. Accordingly, Applicants respectfully urge the Examiner to reconsider and remove the sequence restriction requirement.

Respectfully Submitted,


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